

Def & Ref R. 307

OFFICE OF FINANCE

DEPT. INT'L. REGISTRATION

#101 Reg for
Refund



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR REFUND

07-10-03

APPLICANT:	Joachim Sallvin	<u>REFUNDS SECTION</u>
SERIAL NO.:	10/091,075	GROUP ART UNIT: 3761
FILED:	March 5, 2002	CONFIRMATION NO. 6698
TITLE:	"MECHANICAL BREATHING AID WITH ADAPTIVE EXPIRATION CONTROL"	

Assistant Commissioner for Patents,

Washington, D.C. 20231

SIR:

A Notice to file Missing Parts was mailed in connection with the above application on April 5, 2002, to which Applicant responded on June 7, 2002 by submitting a substitute specification with the requisite fee, as required in the Notice. A Notice of Incomplete Reply was mailed on July 3, 2002, again requiring submission of a substitute specification in compliance with 37 C.F.R. § 1.52, to which Applicant responded on July 6, 2002 by submitting another substitute specification, and explaining that a substitute specification had been previously submitted, and therefore stating that the July 3, 2002 Notice was in error. Nevertheless, as a precaution, charging of the deposit account for the law firm of Applicant's representative was authorized (for a two month extension of time). Contemporaneously with the processing of this response on the part of the Applicant, the aforementioned Deposit Account No. 501519 was, in fact, debited on August 8, 2002 for a two-month extension fee in the amount of \$400.00.

Yet another Notice of Incomplete Provisional Application was on August 29, 2002, this time stating that the specification did not include at least one claim and also stating that an Abstract had not been submitted. Applicant responded to that

Notice by stating that the Patent and Trademark Office apparently had treated Applicant's previous response, wherein only a specification (no claims and no Abstract) had been submitted as was explicitly required in the previous Notice under 37 C.F.R. § 1.52. 37 C.F.R. § 1.52 explicitly states that a substitute specification should *not* include the claims nor an Abstract, but only the specification.

On October 23, 2002, a paper entitled Withdrawal of Previously Sent Notice was received, acknowledging that the Notice dated August 29, 2002 was sent in error.

If, as acknowledged by the Patent and Trademark Office, the August 29, 2002 Notice was sent in error, then the earlier July 3, 2002 Notice must also have been sent in error, as argued by the Applicant, since the Patent and Trademark Office was at that time already in possession of a "clean" specification, which was all that was required by the previous Notice. The debiting of Deposit Account No. 501519, therefore was in error. Crediting of Deposit Account No. 501519 in the amount of \$400.00 is therefore respectfully requested. A duplicate copy of this sheet is enclosed.

Submitted by,

Steven H. Noll (Reg. 28,982)

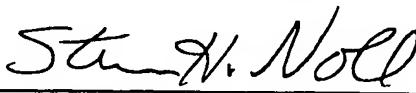
SCHIFF, HARDIN & WAITE
CUSTOMER NO. 26574
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Applicants.

Notice by stating that the Patent and Trademark Office apparently had treated Applicant's previous response, wherein only a specification (no claims and no Abstract) had been submitted as was explicitly required in the previous Notice under 37 C.F.R. § 1.52. 37 C.F.R. § 1.52 explicitly states that a substitute specification should *not* include the claims nor an Abstract, but only the specification.

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Submitted by,

 (Reg. 28,982)

SCHIFF, HARDIN & WAITE
CUSTOMER NO. 26574
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Applicants.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on May 6, 2003.

Steven H. Noll

STEVEN H. NOLL

CH1\4007786.1



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

MONTHLY STATEMENT
OF DEPOSIT ACCOUNT

To replenish your Deposit Account, detach and return top portion with your check. Make check payable to Commissioner of Patents & Trademarks.

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1

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FINA

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DATE POSTED			CONTROL NO.	DESCRIPTION (Serial, Patent, TM, Order)	DOCKET NO.	FEE CODE	CHARGES/ CREDITS	BALANCE
MO.	DAY	YR.						
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AN AMOUNT SUFFICIENT TO
COVER ALL SERVICES REQUESTED
MUST ALWAYS BE ON DEPOSIT.

OPENING BALANCE
5024.25

TOTAL CHARGES
2593.00

TOTAL CREDITS
679.00

CLOSING BALANCE
3110.25

*** O.D. INDICATES OVERDRAWN